



STAFF REPORT

AGENDA ITEM: 8

CASE NUMBER: SAC 17-07

L.U.C.B. MEETING: April 13, 2017

LOCATION: Public alley east of N. Second St and N. of Poplar Ave

OWNER/APPLICANT: First United Methodist Church

REPRESENTATIVE: Cindy Reaves, SR Consulting

REQUEST: Close and vacate a public right-of-way of an east-west public alley located between N. Second St and a north-south public alley which starts at Poplar Ave and terminates in the middle of the block with the subject right-of-way

AREA: +/-0.062 acres

CONCLUSIONS

1. The applicant is seeking to close and vacate a public right-of-way of an east-west public alley between N. Second St and a north-south public alley which starts at Poplar Ave and intersects at the middle of the block with an east-west public alley
2. The closure of the subject public right-of-way does not appear to have any undue or substantial effect upon the existing vehicular and pedestrian traffic flow of the surrounding area.
3. The applicant's intent is to additionally close the public right-of-way of the intersecting north-south public alley in agreement with engineering's recommendation/comment. However, they are currently waiting on the adjacent parcel owner (First Presbyterian Church) to acquire board approval and they did not want to hold up the current closure proceedings of the east-west public alley so that they may progress with their plans of construction for a new sanctuary on the southern portion of the southern parcel (001032 00007). This southern portion of the southern parcel is where they are currently providing meals and ministries to the homeless and poor.

RECOMMENDATION:
Approval with conditions

Staff Writer: *Jeffrey Penzes*

E-mail: jeffrey.penzes@memphistn.gov

GENERAL INFORMATION

Street Frontage: N/A
Zoning Atlas Page: 1920
Parcel ID: N/A
Existing Zoning: CBD

NEIGHBORHOOD MEETING

N/A

PUBLIC NOTICE

In accordance with Sub-Section 9.3.4A of the Unified Development Code, a notice of public hearing is required to be mailed and signs posted. A total of 6 notices were mailed on March 30, 2017, and a total of 2 signs posted on each end of the alley to be closed and vacated. The sign affidavit has been added to this document.

STAFF ANALYSIS

Request and Reason

The application and Letter of Intent have been added to this document.

The request is to close and vacate a public right-of-way of an east-west public alley located between N. Second St and a north-south public alley which starts at Poplar Ave and terminates in the middle of the block with the subject right-of-way. The reason for the request is:

- The owners will use the closure area to provide meals and ministries to the homeless and poor.

Additionally, the applicant plans to physically close the alley and install a gate in order to provide picnic tables and gathering areas for these services.

Site Description

The subject public right-of-way is a +/-16.5-foot wide and +/-163-foot long east-west public alley for a total area of +/-0.062 acres between N Second St and a north-south public alley which starts at Poplar Ave and dead ends into the middle of the block where it intersects with the east-west public alley. The subject public right-of-way is located in-between two parcels (001032 00008C and 001032 00007) both owned by Memphis First United Methodist Church.

The southern portion of the southern parcel (001032 00007) is where they are currently providing meals and ministries to the homeless and poor. On this site they plan to begin construction of a new sanctuary replacing a previously burned down sanctuary at the same location.

Conclusions

The applicant is seeking to close and vacate a public right-of-way of an east-west public alley between N. Second St and a north-south public alley which starts at Poplar Ave and intersects at the middle of the block with an east-west public alley

The closure of the subject public right-of-way does not appear to have any undue or substantial effect upon the existing vehicular and pedestrian traffic flow of the surrounding area.

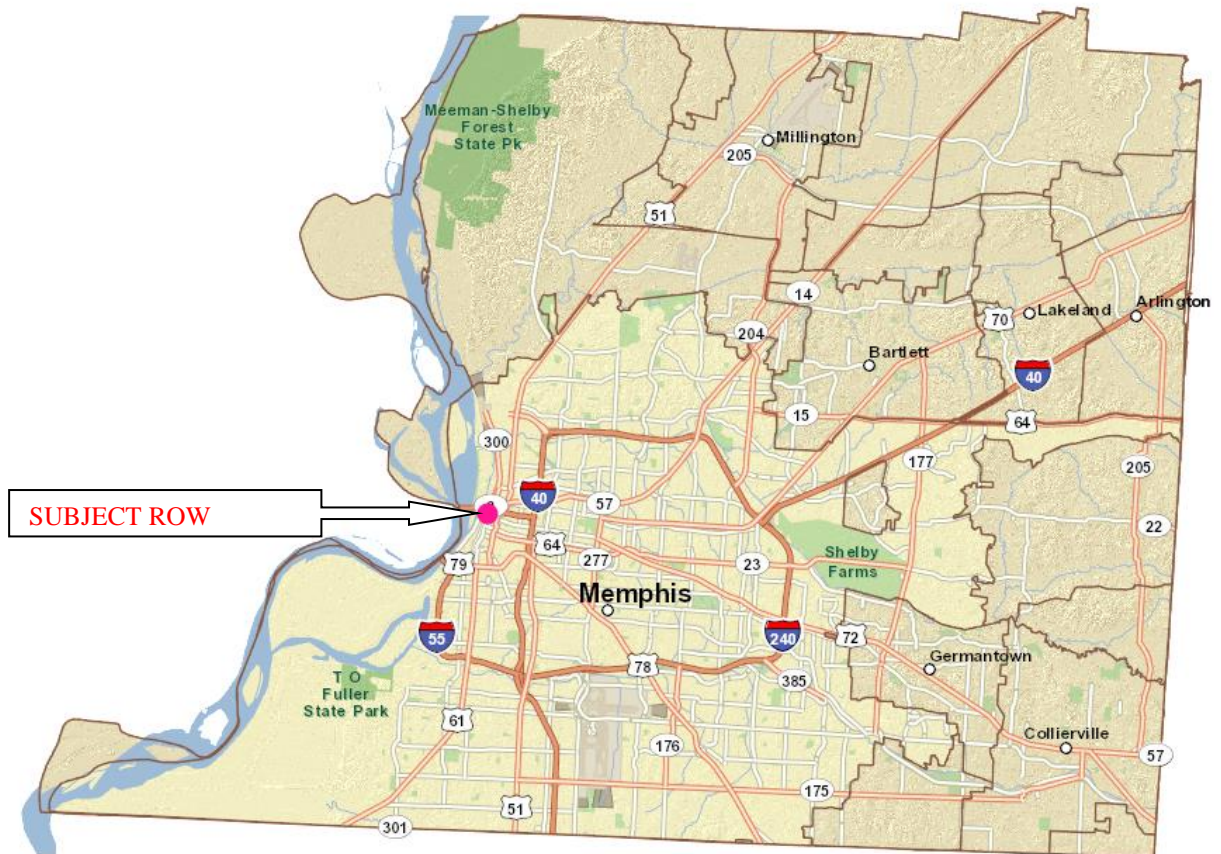
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RECOMMENDATION

Staff recommends approval with the following conditions:

1. Provide easements for existing sanitary sewers, drainage facilities, and other utilities or relocate at developer's expense.
2. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.
3. The applicant shall comply with all conditions of the closure within three years of the conditional approval of the closure by the City Council.
4. An ingress-egress access easement is hereby granted for use by the public and the City of Memphis for access between Exchange Avenue and Poplar Avenue. The easement shall be 20 feet in width between Exchange Avenue and the closed east-west public alley and 16.5 feet between the southern end of the easement and the north-south public alley north of Poplar Avenue.

5. GENERAL LOCATION MAP



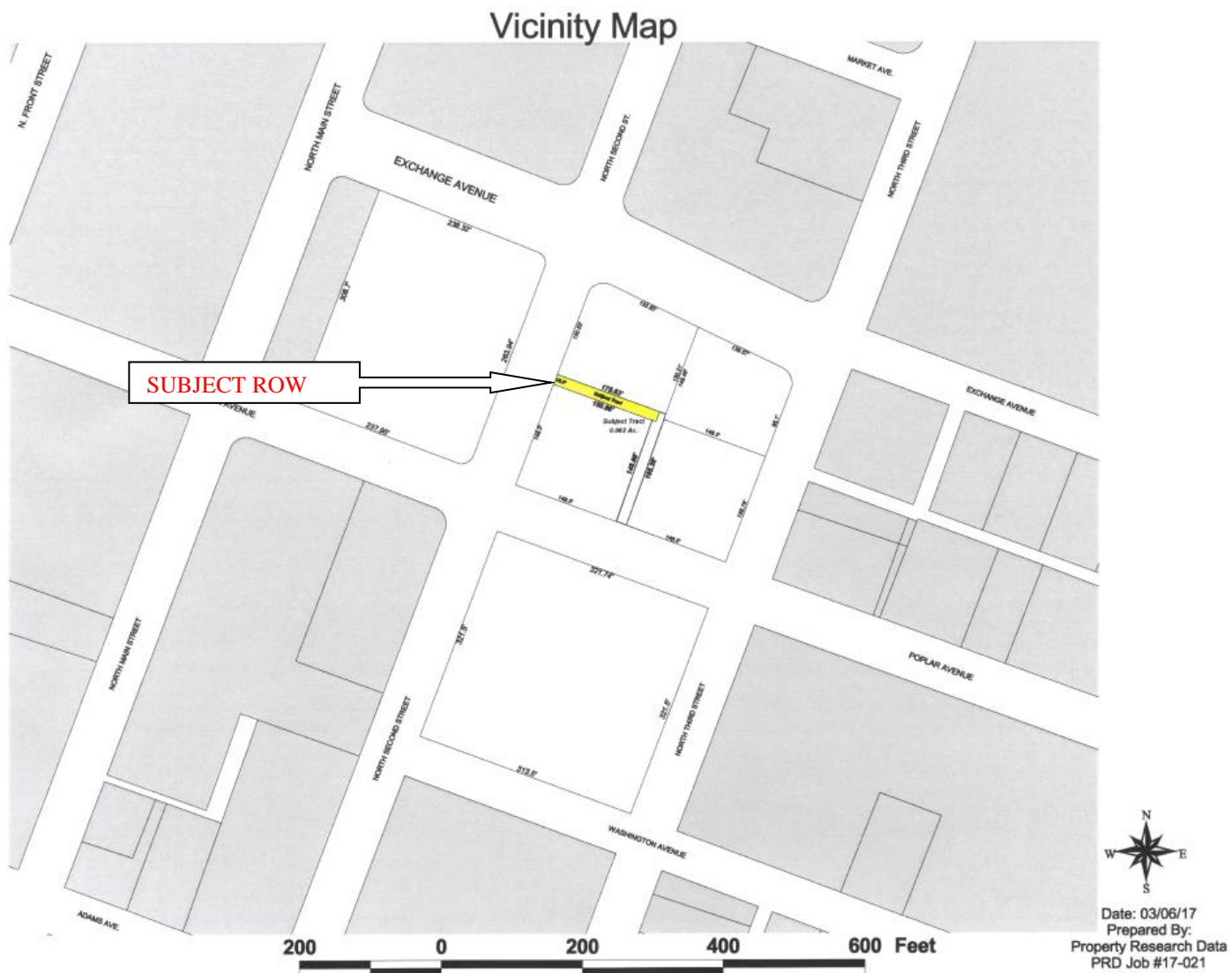
Subject public right-of-way located within the pink circle

PLANNING MAP



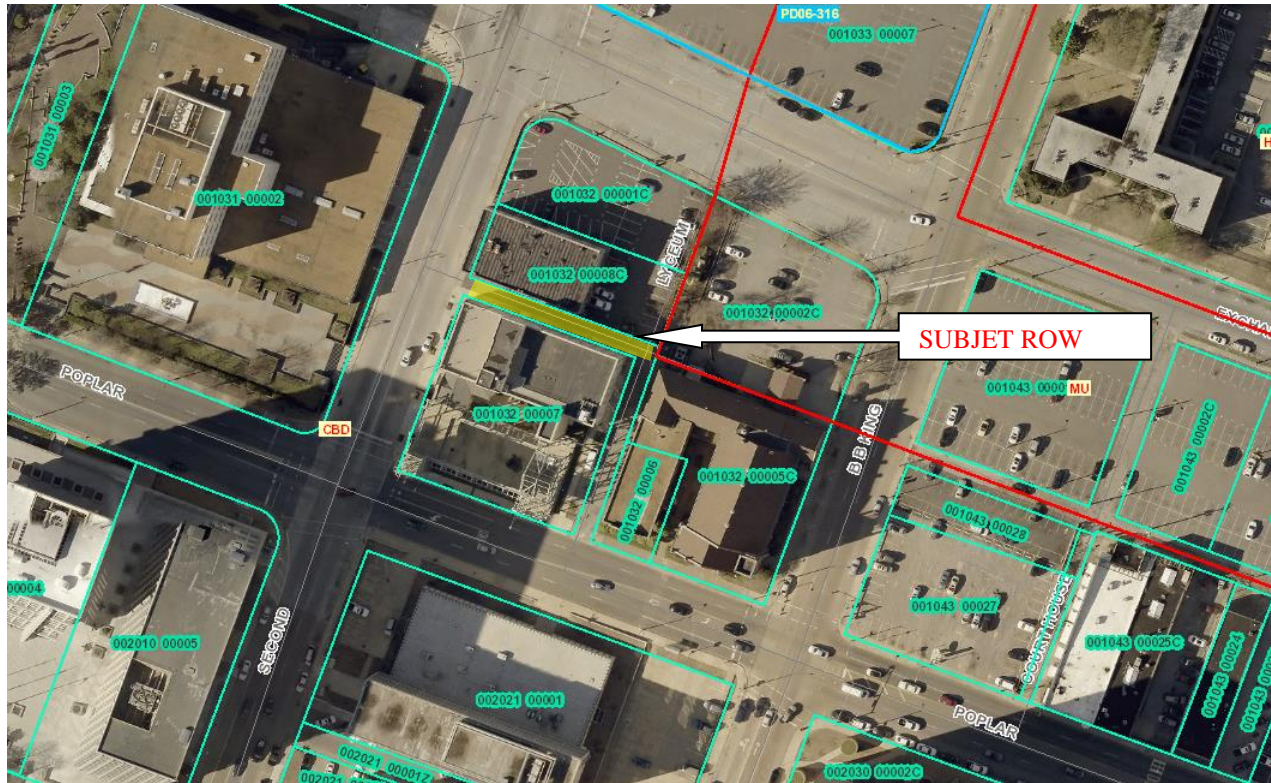
Subject public right-of-way highlighted in yellow

VICINITY MAP



Subject public right-of-way highlighted in yellow

ZONING MAP



Subject property highlighted in yellow

Existing Zoning: CBD

Surrounding Land Use & Zoning

North: CBD and PD 06-316 then Mixed Use

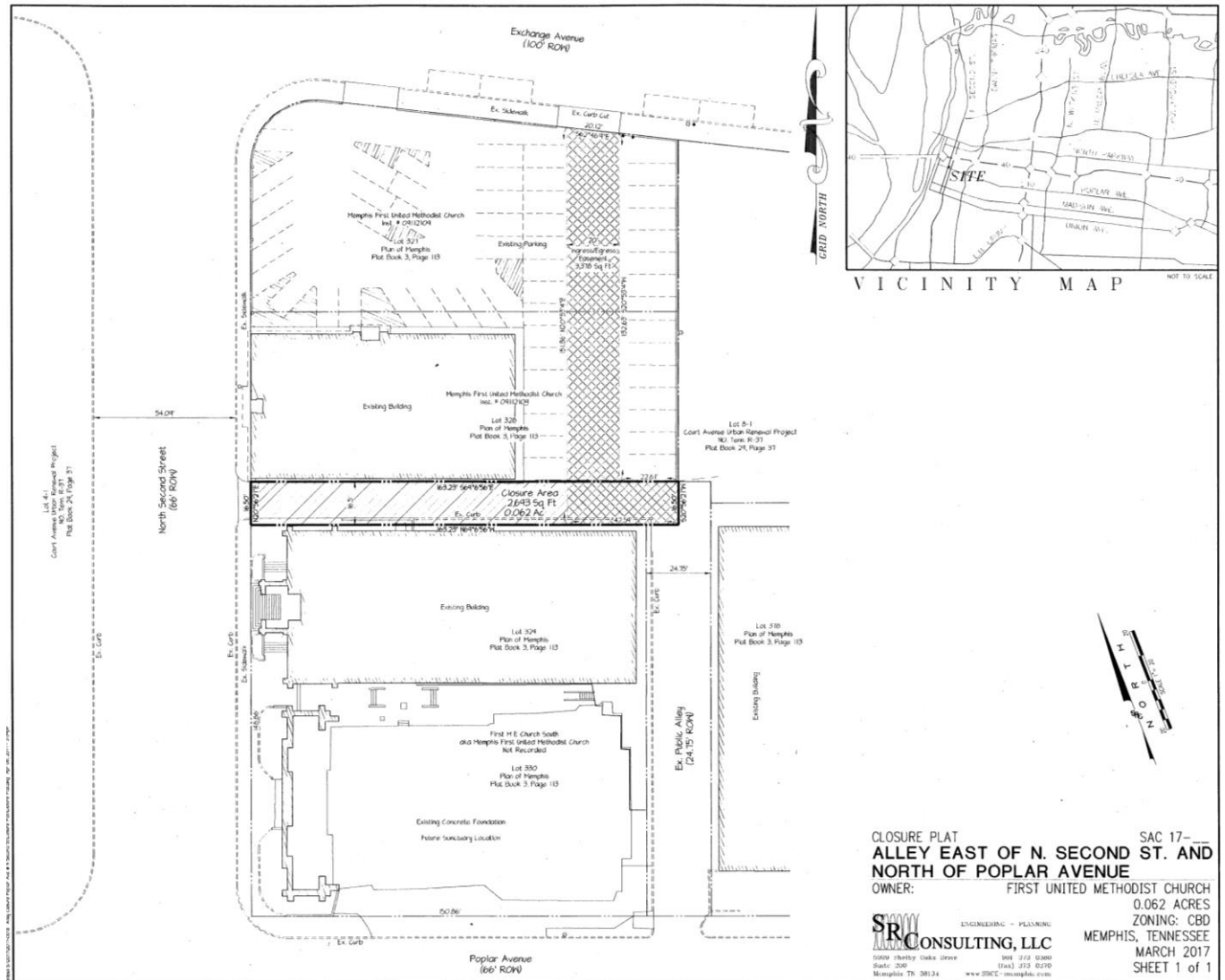
East: CBD/Mixed Use

South: CBD then Sports and Entertainment

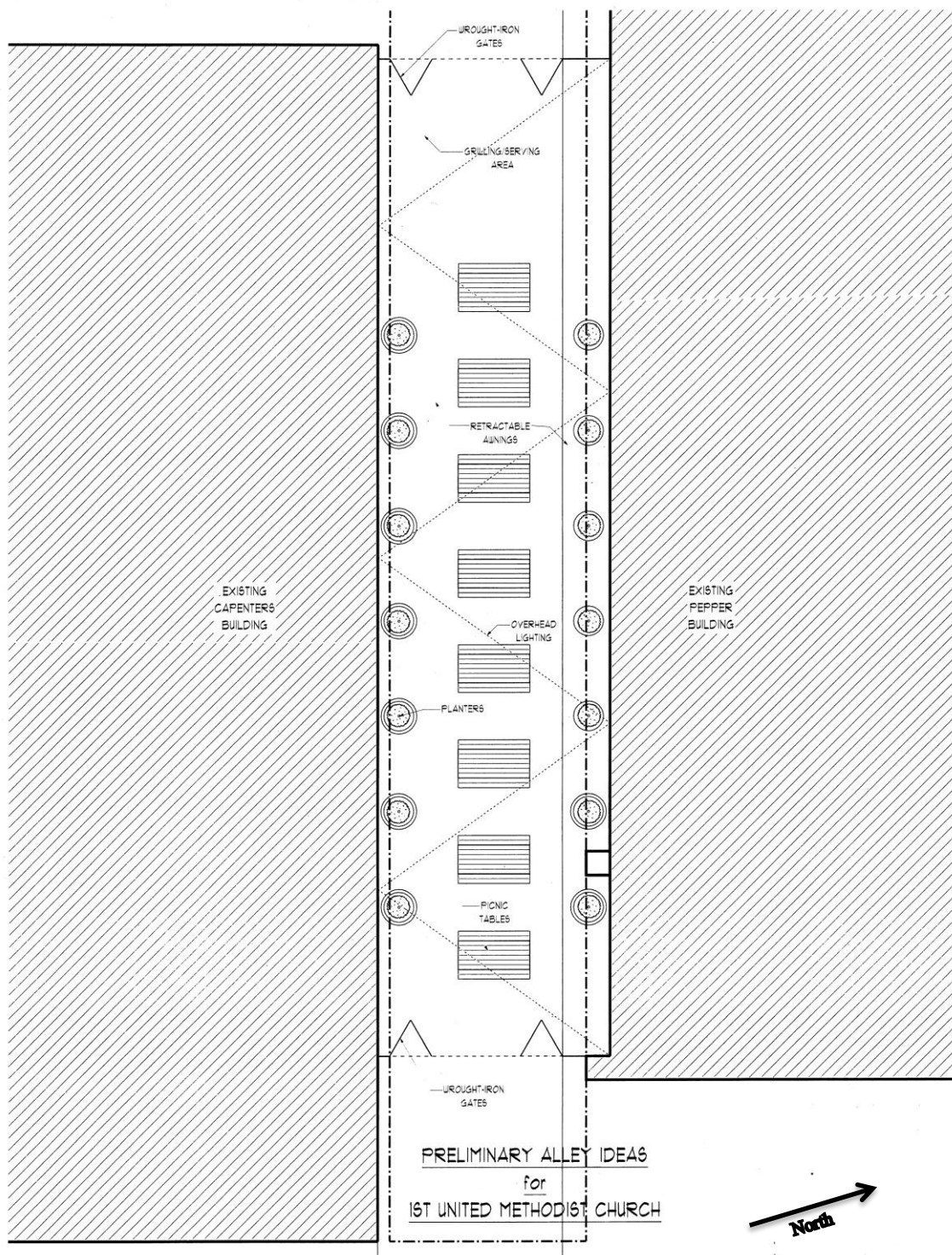
West: CBD then Heavy Industrial

CLOSURE PLAT

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SITE PLAN



SITE PHOTOS



View of access point to the east-west public alley from N. Second St



View of access point to the east-west public alley from north-south public alley



View of access point to the north-south public alley from Poplar Ave



View of access point to the north-south public alley from east-west public alley

SURROUNDING AREA PHOTOS



View of surrounding area from the intersection of Poplar Ave and N. Second St

The sanctuary construction site is where the steel beams in the forefront are seen

DEPARTMENTAL COMMENTS

The following comments were provided by agencies to which this application was referred:

City/County Engineer:

1. This proposed closure violates the general standards for such closures by creating a dead end alley with no outlet and no way to turn around a vehicle using public right of way.
2. City Engineering recommends that the north south alley between the two churches be closed as well as the east west alley.

Street Closures:

3. Provide easements for existing sanitary sewers, drainage facilities and other utilities or relocate at developer's expense.
4. The applicant shall provide for the construction of curb, gutter and sidewalk across the closure as required by the City Engineer. If the City Engineer approves access, the applicant shall construct a City Standard curb cut across the closure, all to the satisfaction of the City Engineer, and at the applicant's expense. The applicant shall enter into a Standard Improvement Contract or obtain a curb cut permit from the City Engineer to cover the above required construction work.
5. The applicant shall comply with all conditions of the closure within three years of the conditional approval of the closure by the City Council.

City/County Fire Division:

No comments received.

City Real Estate:

No comments received.

City/County Health Department:

No comments received.

Shelby County Schools:

No comments received.

Construction Code Enforcement:

No comments received.

Memphis Light, Gas and Water:

Water Quality Branch & Septic Tank Program:

No comments.

MEMPHIS LIGHT, GAS and WATER DIVISION:

- MLGW has reviewed the referenced application, and has no objection, subject to the following conditions:
- MLGW has existing utility distribution facilities within the present public road/alley right of way. The City of Memphis shall retain an easement across the proposed street closure, from edge to edge of the road right of way, to accommodate any existing public utilities, including electric, gas, water, CATV, telephone, sewer, drainage, etc
- It is the responsibility of the owner/applicant to bear the cost if it is necessary for MLGW facilities to be installed, removed or relocated.
- MLGW reserves the right to retain a utility right-of-way within that portion of the existing public road right of way at all times for existing utilities, or the owner/applicant may choose to relocate existing utilities at the expense of the owner/applicant.
- MLGW must be able to access any overhead or underground facilities. Consequently, no permanent structure(s) shall be constructed or erected within that portion of the existing public road right of way including fences, buildings, patios, vehicle parking or paving.

- If there are existing fire hydrants within the proposed closure of the public right-of-way, these hydrants will become public hydrants on private property, and the owner/applicant will be billed an annual maintenance fee on a monthly basis by MLGW.
- If there are existing street lights within the proposed closure of the public right-of-way, MLGW will remove all street lights, and abandon underground electric feeds or remove overhead electric feeds – at the expense of the owner/applicant.
- STREET NAMES: It is the responsibility of the owner/applicant to contact MLGW–Address Assignment @ 729-8628 and submit proposed street names for review and approval. Please use the following link to the MLGW Land & Mapping website for Street Naming Guidelines and the Online Street Name Search: http://cp.mcafee.com/d/2DRPoQd38Orhoud7bWrOpEV76Pqaaab3WrXz9J5555xZdN54SrdCRvIm9OF74qCjrbObwGCgR4ltgggpgs72KA61MGNW20GZXX0GqenH3Ak_KYqerfCPpISr01aDAj7bUgrAuxYqovI4dwwHGOQE4jpJcQsFCPtPqpJUTsTsSyrh
- It is the responsibility of the owner/applicant to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- It is the responsibility of the owner/applicant to contact TN-1-CALL @ 1.800.351.1111, before digging, and to determine the location of any underground utilities including electric, gas, water, CATV, telephone, etc.
- It is the responsibility of the owner/applicant to contact MLGW-Property Management, Land Rights Specialist @ 901-528-4186 to request a Release Deed for release of easement for any existing MLGW Easement(s) in conflict with the proposed development.
- It is the responsibility of the owner/applicant to pay the cost of any work performed by MLGW to install, remove or relocate any facilities to accommodate the proposed development.
- It is the responsibility of the owner/applicant to identify any utility easements, whether dedicated or prescriptive (electric, gas, water, CATV, telephone, sewer, drainage, etc.), which may encumber the subject property, including underground and overhead facilities. No permanent structures will be allowed within any utility easements.
- It is the responsibility of the owner/applicant to comply with the National Electric Safety Code (NESC) and maintain minimum horizontal/vertical clearances between existing overhead electric facilities and any proposed structures.
- It is the responsibility of the owner/applicant to comply with Memphis/Shelby County Zoning Ordinance - Landscape and Screening Regulations.
- Street Trees are prohibited, subject to the review and approval of the landscape plan by MLGW Engineering. It is the responsibility of the owner/applicant to submit a detailed landscape plan to MLGW Engineering.
- Landscaping is prohibited within any MLGW utility easement without prior MLGW approval.
- It is the responsibility of the owner/applicant to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to serve any proposed or future development(s).
- It is the responsibility of the owner/applicant to submit a detailed plan to MLGW Engineering for the purposes of determining the availability and capacity of existing utility services to

serve any proposed or future development(s). Application for utility service is necessary before plats can be recorded.

- All residential developers must contact MLGW's Residential Engineer at Builder Services: (901) 729-8675 to initiate the utility application process.
- All commercial developers must contact MLGW's Builder Services line at 729-8630 (select option 2) to initiate the utility application process.
- It is the responsibility of the owner/applicant to pay the cost of any utility system improvements necessary to serve the proposed development with electric, gas or water utilities.

Land and Mapping-Address Assignment:

NO COMMENT/NO CHANGES-Street names good & existing.

Neighborhood Associations: No comments received.

APPLICATION



Memphis and Shelby County
Office of Planning and Development
CITY HALL 125 NORTH MAIN STREET-SUITE 468 MEMPHIS, TENNESSEE 38103-2084 (901) 576-6601

APPLICATION FOR RIGHT-OF-WAY VACATION/
STREET/ALLEY/CLOSURE APPROVAL

Date: March 3, 2017

Case #: SAC 17-07

PLEASE TYPE OR PRINT

Name of/Street/Alley/ROW: Public Alley, east of N. Second Street and north of Poplar Avenue

Property Owner of Record: First United Methodist Church Phone #: 901-527-8362

Mailing Address: 204 North Second Street City/State: Memphis, TN Zip 38105

Property Owner E-Mail Address: arambo@firstchurmemphis.org; gary@gardodesigngroup.com

Applicant: First United Methodist Church Phone # 901-527-8362

Mailing Address: 204 North Second Street City/State: Memphis, TN Zip 38105

Applicant E-Mail Address: arambo@firstchurmemphis.org; gary@gardodesigngroup.com

Representative: SR Consulting, LLC (Cindy Reaves) Phone #: 901-373-0380

Mailing Address: 5909 Shelby Oaks Drive, Suite 200 City/State: Memphis, TN Zip 38134

Representative E-Mail Address: cindy@srce-memphis.com

Engineer/Surveyor: SR Consulting, LLC Phone # 901-373-0380

Mailing Address: 5909 Shelby Oaks Drive, Suite 200 City/State: Memphis, TN Zip 38134

Engineer/Surveyor E-Mail Address: cindy@srce-memphis.com

Closure Street Address Location: north of 204 N. Second Street

<u>Inside of Memphis City Limits</u>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<u>Unincorporated Shelby County</u>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<u>City of</u>	<input type="checkbox"/> Reserve Area	<input type="checkbox"/> Yes <input type="checkbox"/> No

Distance to nearest intersecting street: Approximately 148.86 feet north of the intersection of the north line of Poplar Av. with the east line of N. Second St.

Area of ROW: 2,693 Square Feet Square-Feet/Acres Length x Width of ROW: 16.5' x 163.23' Feet and

Closure starts at: North Second Street

Proceeds to 163.23 feet east of North Second Street

Reason for Closure: The owners will use the closure area to provide meals and ministries to the homeless and poor.

PRE-APPLICATION CONFERENCE - Not more than six (6) months nor less than five (5) working days prior to filing an application, the applicant shall arrange for a mandatory pre-application conference with OPD.

Pre-Application Conference held on: March 1, 2017 with Chip Saliba

I (we) hereby make application for approval of the street/alley closure described above and on the accompanying materials and closure plat. I (we) accept responsibility for any errors or omissions which may result in the postponement of the application being reviewed by the Memphis & Shelby County Land Use Control Board at the next available hearing date. I (We), owner(s) of the above described property hereby authorize the filing of this application and the above named persons to act on my behalf.

FIRST TIME CHAIR BOARD OF TRUSTEES
Brett Ommark 3.5.17
Property Owner of Record* Date Applicant Date

Property Owner of Record* Date Applicant Date

Property Owner of Record* Date Applicant Date

Property Owner of Record* Date Applicant Date

Property Owner of Record* Date Applicant Date

Every property owner that both abuts the right-of-way to be closed and will be deeded a respective portion shall sign this application unless the signee above is a duly elected representative of a homeowners or property owners association that will be taking ownership of the vacated right of way. See Item H at the bottom of this application for further instructions and exceptions.

Types of Vacation (from Chapter 9.8 of the Unified Development Code)

1. **Conversions** (public-to-private street conversions, pursuant to Section 5.2.18 of the UDC)

Note: street conversions entirely within approved subdivisions or planned developments shall be processed as revisions to the subdivision plat or planned development plat. Please refer to those appropriate applications.

2. **Physical closures** (street and alley closures that involve the physical closure of an existing street or alley)

3. **Abandonment** (divestiture of abandoned or excess right-of-way, paper streets, paper alleys and easements)

SIGN POSTING – A sign or signs shall be erected on-site no more than 30 days or less than 10 days prior to the date of the Land Use Control Board hearing. See Sub-Section 9.3.4C of the UDC for further details on sign posting.

LETTER OF INTENT



Date: March 2, 2017

To: Office of Planning & Development

From: Cindy Reaves

Re: Alley Closure, East of N. Second Street and North of Poplar Avenue

Job #: 17-0016

LETTER OF INTENT

This Street and Alley Closure application is for an alley located east of North Second Street and north of Poplar Avenue. The adjacent property is the home of First United Methodist Church which was partially destroyed by fire in 2006. For the last several years, the church has used the demolished portion of the property to provide meals and ministries to the homeless and poor. The church is now beginning construction of a new sanctuary at the site of the demolished building and would like to continue to provide these ministries by utilizing the land lying within the public alley right-of-way. The owners will physically close the alley and install a gate in order to provide picnic tables and gathering areas for these services.

We appreciate your support with this request. Please contact me if you have any questions.

SIGN AFFIDAVIT

AFFIDAVIT

Shelby County
State of Tennessee

I, Cindy Reaves, being duly sworn, depose and say that at 3:30 pm on the 30th day of March, 2017 I posted two Public Notice Signs pertaining to Case No. SAC 17-07 in front of the alley located east of North Second Street and north of Poplar Avenue providing notice of a Public Hearing before the April 13, 2017 Land Use Control Board for consideration of a proposed Land Use Action (Alley Closure), a photograph of said sign(s) being attached hereon and a copy of the sign purchase receipt or rental contract attached hereto.

Cindy J. Reaves
Owner, Applicant or Representative

04/04/2017
Date

Subscribed and sworn to before me this 4 day of April, 2017

Robert M. Sweeney
Notary Public

My commission expires: 1/20/2020

